

Docket No. AB-387U

Remarks/Arguments

The Examiner is thanked for the clarity and conciseness of the Office Action and for the citation of the references which have been studied with interest and care.

Claim Rejections

Claims 5-13 were rejected under 35 U.S.C. §102(b) as being anticipated by Faltys (US 6,157,861, hereinafter "Faltys"). Claims 1-4 and 14-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Maltan (US 6,415,185, hereinafter "Maltan") in view of Faltys.

Claims 1-19 have been canceled. New claims 20-39 are submitted herewith. No new matter has been added.

Faltys discloses an automated method of determining a suitable range of stimulus intensity for an implantable cochlear stimulator (ICS). Faltys describes "fitting" or "mapping" individual stimulation pulses generated by an implanted cochlear implant (ICS) to an appropriate dynamic audio range so that the appropriate "loudness" of sensed audio signals is perceived.

Faltys does not disclose or suggest applying electrical stimuli to a group or band of electrode contacts as recited in Applicant's new claims. Compared to Applicant's method, the Faltys technique of stimulating a single channel tends to result in overestimating the needed pulse rate and therefore overstimulating the patient.

Maltan discloses a technique for measuring the myogenic evoked response (MER), i.e., an evoked potential occurring between wave 5 of the elicited auditory brainstem response (EABR) at a latency of about 5 to 12 milliseconds following acoustic stimulation. Significantly, Maltan discloses a technique for programming a Cochlear implant system based, in part, on measured evoked potentials that precede the stapedius reflex.

Maltan does not even define electrical stimuli, rather Maltan involves acoustic stimulation. Moreover, the electrode pair of Maltan is merely an electrode and its ground, not a band or group of electrodes as claimed by Applicant.

Compared to both Faltys and Maltan, an advantage of Applicant's approach is that temporal and spatial integration during live speech are accounted for and the accuracy of predicting live speech comfort levels is increased.

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For the reasons discussed above, withdrawal of these rejections is respectfully requested.

Conclusion

In view of the above, it is respectfully submitted that Claims 20-39 should be in condition for allowance. An indication of allowability with respect to these claims is earnestly solicited.

The Examiner is invited to telephone the undersigned, Victoria A. Poissant, at the telephone number indicated below, or Bryant R. Gold, at one of the telephone numbers indicated below, should any issues remain after consideration and entry of this response, in order to permit early resolution of such issues.

Respectfully Submitted,

March 21, 2006



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